IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.APPLICATION NO. 5331 OF 2004

M/s. Tata Motors Ltd., ..Applicant.
(Org.Complainant.)

V/s.

The State of Maharashtra,
EOW GB CID, Mumbai & Anr. ..Respondents.

Shri Mahesh Jethamalani with Pravin Budhekar for the Applicant.
Shri K.V. Saste, APP for Respondent No.1 State.
Shri Harshad Bhadbade for Respondent No.2.

CORAM : A.M.KHANWILKAR, J.
DATED : DECEMBER 10, 2004

PC :-

. Heard learned counsel for the parties. Perused the record.

2. The Sessions Court, Greater Mumbai, by order dated 24th November, 2004 has ordered release of Respondent No.2 on bail in relation to the offence registered with GB CID, Mumbai being C.R. No. 99/2003 in C.C. No. 21/PW/2004. The Respondent No.2 was arrested on 2nd November, 2004 in connection with the said offence and has now been remanded to judicial

custody w.e.f. 16th November, 2004. The court below has essentially noted that the interrogation of the Respondent No.2 has already been done by the Investigating Officer and that practically investigation in all respect is over. It is relevant to note that chargesheet has already been filed in respect of the same offence against the co-accused who have since been released on bail by the Sessions Court after filing of the chargesheet; and which bail order has been confirmed by this court on 22nd April, 2004, while considering the similar grievance made on behalf of the Applicant herein in criminal Application No. 1418/2004. To my mind, the reasons recorded by this court in the said order dated April 22, 2004, which is an elaborate and a well considered decision, would apply with full force to the present application also and I would adopt the same.

3. Indeed, there is substance in the grievance made by the applicant that the court below has not adverted to the stand taken on behalf of the State in its entirety as reflected in the reply filed by the Investigating Officer for opposing the bail Application. In the said reply, it was clearly stated that the Investigation was still in progress and

further that Respondent No.2 was all through-out absconding. Even so, I have no hesitation in confirming the conclusion of the trial court to release the Respondent No.2 on bail with some modified conditions.

4. It is seen from the record as is made available to the court that the Respondent No.2 is in custody since 2nd November, 2004 and has since been sent to judicial custody w.e.f. 16th November, 2004. The last interrogation of the Respondent No.2 was done by the Investigating Officer on 12th November, 2004. In other words, no effort has been made by the investigating officer to interrogate Respondent No.2 in the matter since then. The fact that the bail proceeding was pending or that the investigating officer was busy elsewhere, is not sufficient to ignore the distance of time when Respondent No.2 has been last interrogated. Viewed in this perspective, no fault can be found with the opinion recorded by the court below that the investigation is practically over in all respect. The investigating officer who is present in court states that he would take about 15 days to file the supplementary chargesheet against the Respondent No.2. He further stated that the only

investigation that remains in so far as Respondent No.2 is concerned, is to ascertain whether he has any information with regard to the amount which has been allegedly misappropriated or siphoned out. Respondent No.2 has offered explanation that since October, 2003 he has no concern with the said Praman Motors and which fact is reinforced from the documents placed on record in the shape of Form No. 32 issued by the Registrar. Besides, the statements of some of the witnesses who are stated to be employees of Praman Motors also supports the submission of Respondent No.2 that all the relevant documents and materials were in the custody of co-accused Amarbir Sing. Moreover, it is not in dispute that all the material documents in question are already in the custody of the investigating agency. Even the computer hard disk, containing the relevant information has been seized. Be that as it may, the question is whether the bail as granted by the court below ought to be cancelled. Ordinarily, if the accused was absconding and that too for a long period that ought to be a good ground for declining the relief of bail as in all likelihood, he may not be available for trial if released on bail. But the court below in the present case, has imposed condition of requiring Respondent No.2 to furnish

personal bond in the sum of Rs. One lakh, which is a substantial amount. At the best this condition can be enhanced and brought on par with the co-accused, who were required to furnish the bond in the sum of Rs. Ten lakhs as imposed by the court below and confirmed by this court.

5. Besides, the Respondent No.2 can be put to strict terms that he will report to the Investigating Officer till filing of the supplementary chargesheet as it is stated by the investigating officer through the learned APP, that the supplementary chargesheet against Respondent No.2 will be filed not later than three weeks. The Respondent No.2 will report to the investigating officer on daily basis initially for 10 days and thereafter, as and when required by the investigating officer till filing of the chargesheet, which is assured to be filed not later than three weeks from today. Respondent No.2, however, is permitted to visit Indore on 16th December, 2004 to attend the last rites of his father.

6. In my opinion, if such conditions are imposed in addition to the conditions already imposed by the court below, no further interference is required. The

application is accordingly disposed of while upholding the conclusion reached by the court below in releasing Respondent No.2 on bail, by modifying the conditions of bail to the above extent.

7. Accordingly, the Respondent No.2 be released on bail in connection with the offence in question on executing personal bond in the sum of Rs. Ten lakhs with one or two solvent sureties in the like amount.

8. After his release, the Respondent No. 2 shall not leave Mumbai till filing of the supplementary chargesheet, except for attending the last rites of his father on 16th December, 2004 in Indore (M.P.).

9. He shall report to the investigating officer daily for a period of 10 days from the date of his release between 4 p.m. to 6 p.m. or at any other time or place as may be directed and thereafter, after filing of the chargersheet once in fortnight, on Saturday between 10 a.m. to 1 p.m..

10. Passport of Respondent No.2 shall be retained by the Investigating Officer during the pendency of the trial.

11. The application is disposed of in the above terms.

12. The concerned Trial Court shall ensure that the trial is expeditiously disposed of within one year from the date of filing of the supplementary chargesheet.

13. All the concerned to act on an authenticated copy of this order.

14. Ordered accordingly.

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